
By: **Chairman, Appropriations Committee (By Request - Departmental -
General Services)**

Introduced and read first time: January 21, 2004

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Finance and Procurement - Capital Grants - Lien for Recovery**

3 FOR the purpose of authorizing the creation of liens against property for repayment
4 of amounts recoverable under capital grants; requiring a grantee to enter into a
5 certain grant agreement with the Board of Public Works; providing procedures
6 for obtaining and enforcing liens for repayment of amounts recoverable under
7 capital grants; defining certain terms; and generally relating to the creation of
8 liens against property for repayment of amounts recoverable under capital
9 grants.

10 BY adding to

11 Article - State Finance and Procurement
12 Section 8-127.1
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2003 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - State Finance and Procurement**

18 8-127.1.

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (2) "GRANT AGREEMENT" MEANS A CAPITAL GRANT AGREEMENT
22 BETWEEN A GRANTEE AND THE BOARD.

23 (3) "GRANTEE" MEANS A RECIPIENT OF FUNDS UNDER A GRANT
24 AGREEMENT.

25 (4) "SECRETARY" MEANS THE SECRETARY OF GENERAL SERVICES.

26 (B) A GRANTEE SHALL ENTER INTO A GRANT AGREEMENT WITH THE BOARD.

1 (C) TO THE EXTENT PROVIDED IN A GRANT AGREEMENT, THE STATE SHALL
2 HAVE THE RIGHT TO RECOVER FUNDS DISBURSED UNDER THE GRANT AGREEMENT
3 AND OTHER AMOUNTS IDENTIFIED IN THE GRANT AGREEMENT.

4 (D) THE RIGHT OF THE STATE TO RECOVER FUNDS AND OTHER AMOUNTS
5 UNDER A GRANT AGREEMENT SHALL CONSTITUTE A LIEN AGAINST REAL OR
6 PERSONAL PROPERTY IDENTIFIED IN THE GRANT AGREEMENT.

7 (E) A GRANT AGREEMENT MAY CONTAIN A POWER OF SALE, AN ASSENT TO
8 DECREE, AND OTHER PROVISIONS RESPECTING A LIEN UNDER THIS SECTION.

9 (F) (1) IF A GRANT AGREEMENT PROVIDES FOR A LIEN ON PROPERTY,
10 BEFORE DISBURSEMENT OF FUNDS TO THE GRANTEE THE SECRETARY SHALL CAUSE
11 TO BE RECORDED A NOTICE OF LIEN UNDER THIS SECTION.

12 (2) IN THE CASE OF REAL PROPERTY OR FIXTURES, THE NOTICE OF LIEN
13 REQUIRED BY THIS SECTION SHALL BE FILED IN THE LAND RECORDS OF THE
14 COUNTY OR BALTIMORE CITY IN WHICH THE PROPERTY IS LOCATED.

15 (3) (I) IN THE CASE OF PERSONAL PROPERTY, THE NOTICE OF LIEN
16 REQUIRED BY THIS SECTION SHALL BE A FINANCING STATEMENT FILED IN THE
17 RECORDS OF THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION WHERE
18 FINANCING STATEMENTS ARE FILED UNDER TITLE 9 OF THE COMMERCIAL LAW
19 ARTICLE.

20 (II) A FINANCING STATEMENT FILED UNDER THIS SECTION SHALL
21 MEET THE REQUIREMENTS OF § 9-502 OF THE COMMERCIAL LAW ARTICLE.

22 (4) A LIEN OBTAINED UNDER THIS SECTION SHALL ATTACH TO THE
23 PROPERTY IDENTIFIED IN THE NOTICE OF LIEN AND SHALL BE PERFECTED AS OF
24 THE DATE OF FILING OF THE NOTICE OF LIEN.

25 (G) (1) A GRANT AGREEMENT MAY LIMIT THE DURATION OF A LIEN
26 OBTAINED UNDER THIS SECTION.

27 (2) (I) IF A GRANT AGREEMENT LIMITS THE DURATION OF A LIEN
28 OBTAINED UNDER THIS SECTION, THE LIEN SHALL BE DEEMED RELEASED OF
29 RECORD AS OF THE DATE OR UPON THE OCCURRENCE OF THE EVENT IDENTIFIED IN
30 THE GRANT AGREEMENT.

31 (II) A NOTICE OF LIEN SHALL STATE ANY DATE OR CONDITIONS
32 UPON WHICH A LIEN SHALL BE DEEMED RELEASED OF RECORD UNDER THIS
33 PARAGRAPH.

34 (H) UPON APPROVAL OF THE BOARD, THE SECRETARY MAY RELEASE A LIEN
35 OBTAINED UNDER THIS SECTION.

36 (I) UPON APPROVAL OF THE BOARD, THE SECRETARY MAY SUBORDINATE A
37 LIEN OBTAINED UNDER THIS SECTION TO ANY OTHER LIEN.

1 (J) RELEASES AND SUBORDINATION AGREEMENTS SHALL BE RECORDED BY
2 AND AT THE EXPENSE OF THE GRANTEE.

3 (K) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
4 SUBSECTION, A LIEN OBTAINED UNDER THIS SECTION AGAINST REAL OR PERSONAL
5 PROPERTY SHALL BE FORECLOSED IN ACCORDANCE WITH THE MARYLAND RULES OF
6 PROCEDURE GOVERNING FORECLOSURE OF LIEN INSTRUMENTS.

7 (2) A LIEN OBTAINED UNDER THIS SECTION AGAINST PERSONAL
8 PROPERTY MAY BE FORECLOSED OR ENFORCED IN ACCORDANCE WITH PROCEDURES
9 APPLICABLE TO SECURITY AGREEMENTS UNDER TITLE 9 OF THE COMMERCIAL LAW
10 ARTICLE.

11 (3) IN ANY PROCEEDING TO FORECLOSE OR ENFORCE A LIEN AGAINST
12 REAL OR PERSONAL PROPERTY OBTAINED UNDER THIS SECTION, THE PERSON
13 INSTITUTING THE FORECLOSURE ACTION, SELLING THE PROPERTY, OR ENFORCING
14 THE LIEN ON BEHALF OF THE STATE MAY NOT BE REQUIRED TO POST A BOND.

15 (L) THE SECRETARY MAY CHARGE A GRANTEE AN ADMINISTRATIVE FEE
16 APPROVED BY THE BOARD FOR PROCESSING A NOTICE OF LIEN, A RELEASE, OR A
17 SUBORDINATION AGREEMENT UNDER THIS SECTION.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
19 effect July 1, 2004.